IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2205 of 1997

Between:

The Depot Manager, APSRTC, Zaheerabad, Medak Dist.

..... PETITIONER

AND

1 The Labour Court-II,

Rep by its Presiding Officer,

Hyderabad.
2 Md.Liskath Ali, Ex.Conductor, E.100991,
Doulatabad (V & Post) Via Ismailkhanpet,

Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of certiorari and quash the award dt.4-7-96 passed in ID 43/95 on the file of the Labour Court-II, Hyderabad which was published in G.O Rt.No.2804, dt.7-10-96.

For the Petitioner :MR. K.HARINATH,S.C.for APSRTC

For the 1st respondent : The Government Pleader for Labour

For the 2nd Respondent : MR.SADU RAJESWARA REDDY, Advocate.

The Court made the following :

ORAL ORDER:

This writ petition is filed by the Corporation aggrieved by the award passed by the

Labour Court in I.D.No. 43 of 95 dated 04-07-1996 under which the order of removal passed by the corporation against the 2nd respondent was set aside and ordered reinstatement into service with all attendant benefits with 50% of the back wages from the date of the removal to the date of reinstatement.

2. According to the petitioner, the 2nd respondent was appointed as a conductor in the year 1983 and his services were regularized in the year 1985. While the petitioner was conducting the bus bearing No.AEZ 3953 on the route from Nirmal-Zaheerabad, check was conducted by the Checking Officials at stage No.8 at about 6-40 hours. They detected certain cash and ticket irregularities committed by the petitioner. Thereafter, the second respondent was issued a charge memo for which the 2nd respondent filed his explanation. Thereafter, a regular enquiry was conducted and the Enquiry Officer found that the charges are proved against the second respondent/workman. Pursuant to the said orders, the 2nd respondent was removed from services. The second respondent, therefore, raised an industrial dispute before the Labour Court-II, Hyderabad, which was registered as I.D.No.43 of 95. Before the Labour Court, the petitioner contended that there was no intentional failure on his part in not collecting the fare and the workman was cheated by two passengers claiming that they have paid the fare and received the tickets, which fact was detected at the time of the checking by the Checking Officials. It was also contended that the resultant loss on account of the failure of the issuance of the ticket caused was only Rs.4.50 paise. Therefore, the punishment imposed by the corporation is disproportionate to the alleged offence, said to have been committed by the 2nd respondent, and, therefore, sought for setting aside the removal order. The Labour Court, after hearing both sides, passed the order taking a lenient view, keeping in view the amount involved and also the proportion of punishment in terms of Section 11(A) of the Industrial Disputes Act and set aside the order of removal with a consequent direction of reinstatement with all attendant benefits and 50% of the back wages. Aggrieved by that, the corporation has come up with the present writ petition.

3. The learned Counsel for the petitioner contended that the Labour Court was in error in ordering reinstatement of the 2nd respondent with all the attendant benefits as well as 50% of the back wages. It is contended that when the workman was found guilty of charges even if amount is paltry amount, it would not be appropriate in

ordering reinstatement with all consequential benefits. Therefore, sought for setting aside the order of the Labour Court.

4. Though the Counsel has filed appearance for the workman, none appeared at the time of hearing. Hence the Writ Petition is disposed of on merits.

5. Heard the learned counsel for the petitioner and considered the material on record.

6. Admittedly, the petitioner Corporation conducted domestic enquiry with reference to the cash and ticket irregularities against the 2nd respondent workman. As charges were found against the workman, the order of removal was passed by the Corporation. The Tribunal though did not found fault with the domestic enquiry, but, however, in view of the amount involved and also the punishment, the Tribunal felt that the punishment imposed was disproportionate to the offence alleged to have been committed by the workman, and, therefore, set aside the order of removal, with consequential benefits including 50% of the back wages. The contention of the petitioner is that the said order is illegal and unsustainable. On consideration of the material on record, and as well as the contentions advanced, the punishment of removal imposed by the corporation is certainly disproportionate to the offence alleged to have been committed by the workman, and, therefore, the setting aside of the order of removal is proper and just. Therefore, the workman-2nd respondent is also entitled for all other attendant benefits, but, however, as the workman did not render any service during the period during which he was removed from service, i.e. from the date of removal till the date of reinstatement, he is not entitled for back wages, as admittedly, the order of removal was passed because of his own acts of omissions and commissions.

7. Under the above circumstances, the order of the Tribunal is modified denying the back wages in full, without effecting the other portion of the award passed by the Labour Court.

8. The Writ Petition is accordingly allowed in part. No costs.

S. Ananda Reddy, J.

Dt:02..08..2004.

RNS/KVH

To

1. The Presiding Officer,

The Labour Court-II,

Hyderabad.

2. Two CD copies.